

DECLARATION

I, William H. Seaver, do hereby certify that:

1. In April, 1992 I was advised by Kent Bewley of a conversation he had had with Frank Harkins, Sr. a few days earlier. The statements attributed to Mr. Harkins by Mr. Bewley in his September 28, 1993 Declaration are entirely consistent with what Mr. Bewley told me in April, 1992, concerning his then very recent conversation with Mr. Harkins.

2. On Friday, December 3, 1993 I visited the studios of WSMG(AM), Greeneville, Tennessee, for the purpose of inspecting the station's public file and, more specifically, for viewing and obtaining copies of those quarterly issues/programs lists which were not contained in the public file at the time David Murray inspected the file on July 8, 1993. I arrived at the studios at 9:12 AM and spoke with station employee, Connie Thompson. I indicated to Ms. Thompson that I wished to review the station's public file. Ms. Thompson refused to permit me to review the station's public file. When I pointed out that this was highly unusual, she stated explicitly that she had been expressly advised by Darrell Bryan not to permit anyone to review the public file, unless he was present at the station and that she was required to follow his instructions. She indicated that Mr. Bryan was not at the station and she had no way to contact him. Having been refused access to the public file and having no other

business at the station I left. It was not possible for me to return to the station at a later time, because I had a prior business commitment in Florida the following day, and thus, after making few other stops, I began the trip back to Florida.

I hereby certify under penalty of perjury that the above statement is true.

Signed and dated this 8 day of December, 1993.


WILLIAM H. SEAVER

EXHIBIT C

DECLARATION

I, David T. Murray, do hereby swear and state the following:

I have reviewed the Opposition of Darrell Bryan and the accompanying Statements by Walt Stone and Garret Lysiak. Neither statement offers any evidence to refute SBH's evidence previously submitted, e.g. copies of actual transmitter logs for an entire one-week period, which clearly show that the station was operating in violation of commission rules.

The questions surrounding Direct and Indirect methods of determining power are addressed in 73.51 (a) : "Except on those circumstances described in paragraph (d) of this section, the operating power shall be determined by the direct method", and 73.51 (d) provides that: "When it is not possible or appropriate to use the direct method of power determination due to technical reasons, the indirect method of determining power... may be used on a temporary basis." In addition, 73.51 (d) requires that when an election to use the Indirect method is made, a notation must be made in the station log. The subsequent transmitter log entries would then reflect the necessary calculations to determine power Indirectly.

AM stations are required to determine their operating power by the Direct method - the actual station license has, printed on its face, the specific antenna current which the station must maintain within +5% and -10% (73.1560). WSMG attempts to rely on the exception allowed in paragraph (d) which is intended to deal with temporary, short-term technical malfunctions. 73.51 (d) specifically allows the Indirect method of determining power to be used if it is not possible, due to technical reasons, to use the Direct method. However, the rule applies specific conditions: (a) the election to use the direct method is temporary (commonly used while immediately addressing the technical problem which prevents direct measurement) and (b) a notation must be made in the station log.

WSMG's attempt to belatedly rely on the Indirect method does not comply with either of the above conditions the Commission sets out for its use. By their own admission in Walt Stone's statement, the "technical problem" had persisted for over a year without rectification. "Temporary" might describe a week or two while replacement of a single cable took place - but not a period of more than a year while the problem appears to have received no attention.

Secondly - and most importantly - no notation appears in the station's transmitter logs, as required by 73.51 (d), as to WSMG's election to measure power by the Indirect method, nor did WSMG supply any evidence nor give any indication that such required written notification had ever been made. Further, nothing in the logs indicated any reference to any calculations that were ever made by the control operators to determine their power using the Indirect method. Commission rules require that the control operators be able to accurately monitor and control transmitter output power. How did their control operators know that they were operating in compliance? According to the information that they had available to them - information they entered into the logs and upon which they relied in order to make their operational decisions - WSMG exceeded its authorized power for the entire sample week. No evidence has been provided to show that any additional information was available to the control operators. The copies of the actual WSMG logs offer prima facie evidence that the control operators were not determining power by the Indirect method.

It's also worth noting that although WSMG's Chief Engineer, Walt Stone, indicated in his Statement that he made weekly readings at the transmitter site, no copies of his logs nor

any other evidence was offered to support his claim. It's curious as well that Mr. Stone evidently spliced the broken line, but did not discover until "later" that his splice resulted in erroneous readings. Normally, when an engineer makes a repair, he immediately checks his work to see what effect it has had on the system.

It is baffling as to why WSMG didn't simply recalibrate the studio meters to read accurately, thus correcting for the error induced by the splice, which is normally a very simple, no cost procedure. Indeed, the rules require calibration of remote meters as often as necessary in order to insure their accuracy, thus insuring compliance with the rules governing output power.

Mr. Lysiak, a Registered Professional Engineer who provided an "Engineering Statement" for Darrell Bryan, indicates from his narrative that he has gone back, after-the-fact and attempted to show that WSMG operated within its allowable power limits during the period in question. If we were to assume that all of the data which was supplied after-the-fact to Mr. Lysiak was accurate, then his calculations themselves would appear to be correct.

No evidence has been introduced, however, to document that the efficiency factor, which is critical to the accuracy of Mr. Lysiak's calculations, is correct.

73.51 (e) lists the formula for determining power indirectly:

Antenna Input Power = $E_p \times I_p \times F$ where E_p = DC input voltage of final radio stage, I_p = total DC input current of final radio stage, and F = efficiency factor.

Mr. Lysiak simply stated that the manufacturer's specified efficiency for that transmitter is 70%, yet no supporting evidence was provided. Even if the 70% was the figure supplied by the manufacturer for the WSMG transmitter, that figure represents an average for the transmitter model, and does not at all necessarily represent the true efficiency of the transmitter at the specific power level and frequency at which it is operated. It is commonly known within the RF Engineering community that a transmitter's efficiency can vary depending upon the unique combination of power level and frequency at which it is operated [sec 73.51 (e)(2)(i)]. In recognition of this fact, the Commission in 73.51 (e)(2) requires that a notation be kept as to the value and the derivation of the value of "F" (efficiency) in the formula to determine power indirectly. No copies of nor any indication of the existence of such information have been introduced.

73.51(e)(2)(f)(1) specifies the method by which WSMG must determine its transmitter's efficiency: "If the station had previously been authorized and operating by determining the antenna input power by the direct method, the factor "F" is the ratio of the antenna input power (determined by the direct method) to the corresponding final radio frequency power amplifier input." Clearly, and indisputably, this procedure was not used to determine WSMG's transmitter efficiency – a critical element in determining correct power output by the Indirect method. No evidence has been introduced in either Bryan's Opposition or the supporting statements to suggest that they were even aware of this requirement of the Commission's rules, much less having utilized it in accurately determining their output power.

A review of the pleadings, along with supporting documentation and statements filed thus far in this case clearly demonstrates that a material question of fact exists as to what WSMG's true power output level was for the period in question. From the information available, it is also clear that the WSMG control operators had no way to know what the true transmitter output power was, and thus had no way to insure that they were maintaining proper control of their transmitter, in compliance with the rules. No question exists as to whether the FCC's rules were complied with – they clearly were not.

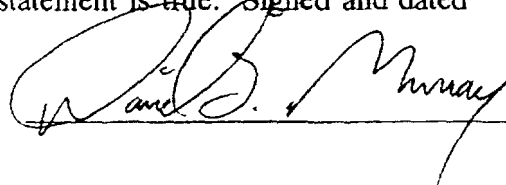
With respect to Bryan's problem with its transmitter which Bryan alleges forced it to keep its transmitter on continuously, including nightly unattended operation for over 6 months: practically any major problem in an AM transmitter can be traced and identified by an engineer experienced in AM RF transmission systems in a single overnight session. Even truly elusive problems can usually be isolated after an intensive weekend of transmitter maintenance. To suggest that it would take many months is to admit that the problem was not being addressed.

With respect to my finding when inspecting WSMG's Public File: as I pointed out in my Declaration of September 24, their Public File contained several different file folders, each labeled "Public Affairs" covering various time periods, each contained various scraps of paper, notes, letters, newsletters, programs, flyers, pages from calendars, etc., as well as numerous blank "Public Affairs File" forms. It appeared obvious to me that they were in the process of creating these filled-in forms, using the information found on the various items contained in each file. In no file, for any period of time, did I find a comprehensive list of programs that have provided the station's most significant treatment of community issues during the preceding 3 month period, as is required by the rules.

Darrell Bryan states that "the Public Affairs File (singular "File" is his word) from 1986 through 1990 was in the file drawer at that time" (of my visit). As reflected in my September 24 Statement, I made a detailed inventory of the contents of each and every file of any current significance which was contained within WSMG's Public File drawer. I did not personally remove these files from the drawer - Connie Thompson removed them and gave them to me. When I asked Ms. Thompson to please double-check to see if any of the various "missing" files were in the Public File drawer, I stood next to her and reviewed with her the contents of the file drawer in which the Public Inspection File was contained, and neither she nor I could locate any of the "missing" files, including those from the 1986-1990 period which Mr. Bryan alleges were in the Public Inspection File. Mr. Bryan also states that "There are no quarterly lists missing from the Public File." As I have previously indicated, I found no "quarterly lists", only some filled-in "Public Affairs" forms and a hodge-podge of miscellaneous information. For Mr. Bryan to state emphatically, as he did in his statement, that "Our Public Affairs File was complete" is simply not true.

Before leaving WSMG, I again asked Connie Thompson, who had been very congenial and helpful throughout my visit, if she had given me the entire contents of WSMG's Public Inspection File. She again confirmed that I had seen the entire file, and that she had no knowledge as to the location of the "missing" files. While Ms. Thompson did offer to attempt to reach Kathy Knight, she gave no indication that the missing files might be elsewhere on the premises.

I certify under penalty of perjury that the above statement is true. Signed and dated this 9th day of December, 1993.

A handwritten signature in dark ink, appearing to read "Murray", is written over a horizontal line.

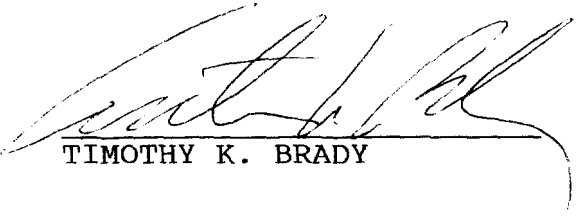
CERTIFICATE OF SERVICE

I, Timothy K. Brady, hereby certify that on or before the 10th day of December, 1993, I will have served a copy of the foregoing Reply to Opposition to Petition to Enlarge Issues and Threshold Showing of Unusually Poor Broadcast Record by First Class mail, postage prepaid upon the following:

Honorable John M. Frysiak
Administrative Law Judge
Federal Communications Commission
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Washington, DC 20554

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TIMOTHY K. BRADY